

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

| | | |
|---------------------------|---|---------------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Cause No. 3:11-cr-00047-RLY-CMM |
| |) | |
| |) | |
| WILLIAM WIND (01), |) | |
| |) | |
| Defendant. |) | |

REPORT AND RECOMMENDATION

On April 23, 2019, the Court held an initial hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on March 28, 2019. Defendant William Wind ("Defendant") appeared in person with FCD counsel, Michael Donahoe. The government appeared by Pamela Domash, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Jennifer Considine.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. §3583:

1. The Court advised Defendant of his rights and provided him with a copy of the petition. Defendant orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant admitted Violations Nos. 1-4.
[Docket No. 60.]
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- 1 " You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner. You shall follow the prescription instructions regarding frequency and dosage."

William Wind provided urine screens on January 30, February 7, and February 12, 2019. All drug screens tested positive for amphetamines and cannabinoids. Mr. Wind admitted to methamphetamine and marijuana use.

- 2 "You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug tests per month. You shall not attempt to obstruct or tamper with the testing methods."

William Wind failed to report for drug screens on the following dates: February 11, February 14, February 19, February 21, February 22, and February 26, 2019.

- 3 "You shall participate in a substance abuse or alcohol treatment program approved by the probation officer and abide by the rules and regulations of that program. The probation officer shall supervise your participation in the program (provider, location, modality, duration, intensity, etc.)."

William Wind failed to report to substance abuse counseling on the following dates: February 18, February 20, and February 27, 2019.

The offender entered residential treatment on March 5, 2019, and he self-discharged on March 25, 2019, prior to completing the program.

- 4 "You shall report to the probation officer in a manner and frequency directed by the court or probation officer."

William Wind absconded supervised release.

4. The parties stipulated that:

- (a) The highest grade of violation is a Grade **B** violation.

- (b) Defendant's criminal history category is **VI**.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is **21 to 24** months imprisonment.

5. Parties jointly recommended that defendant be incarcerated for twenty-one (21) months with no supervised release to follow.

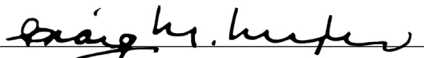
6. The Magistrate Judge, having considered the factors in 18 U.S.C. §3553(a), and as more fully set forth on the record, finds that:

- (a) The Defendant violated the conditions in the petition;
- (b) That the agreement of the parties is an appropriate resolution of this matter and the agreement is commended to the favorable consideration of the District Judge;
- (c) That, consistent with the agreement, the Magistrate Judge recommends that the defendant's supervised release be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of twenty-one (21) months with no supervised release to follow. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation. The Court recommends placement at the Bureau of Prisons facility at Oxford, Wisconsin, and further recommends intensive substance abuse evaluation and treatment.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge.

The parties waived the fourteen-day period to object to the Report and Recommendation.

Dated: April 23, 2019


CRAIG M. McKEE, Magistrate Judge
United States District Court
Southern District of Indiana

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